

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X
:
UNITED STATES OF AMERICA :
:
- v - : INDICTMENT
:
MICHAEL J. VATTER, : 16 Cr. 41
:
Defendant. :
:
- - - - - X

COUNT ONE

(Wire Fraud)

The Grand Jury charges:

BACKGROUND

1. Unless specified otherwise, at all times relevant to this Indictment:

The Defendant

a. From in or about November 2009 to the present, MICHAEL J. VATTER, the defendant, served as the Chief of the City of Newburgh Fire Department in Newburgh, New York.

b. VATTER had previously served in the Newburgh Fire Department in various capacities from in or about 1980 to in or about May 2000. Following his retirement from the Newburgh Fire Department in 2000, VATTER attended law school and was admitted to the practice of law in New York in 2004.

New York State and Local Police and Fire Retirement System

c. The New York State and Local Police and Fire Retirement System ("Police and Fire Retirement System") was a public pension system. It managed retirement benefits for former public safety employees who had retired from service either with the State of New York or with those local governments in New York State that participated in the Police and Fire Retirement System.

d. The payment of retirement benefits to retirees within the Police and Fire Retirement System who returned to employment with the State of New York or its political subdivisions was governed by New York's Retirement and Social Security Law (the "Retirement Law"). The Retirement Law provided that such retirees could earn up to \$30,000 per year before their retirement benefits were suspended for the remainder of the year, unless they obtained a waiver of that earnings limit from the Police and Fire Retirement System.

e. In each year since 2009, the Police and Fire Retirement System mailed to each retiree an annual statement that included a reminder of the \$30,000 earnings limit. The annual statement also contained a form on which retirees were to report to the Police and Fire Retirement System any earnings they had received from employment with the State of New York or its political subdivisions within the last year.

f. The Retirement Law provided that "[a]ny person who . . . falsif[ied] or permit[ted] to be falsified any record of the retirement system, in any attempt to defraud such system as the result of such act" would be guilty of a felony if he thereby obtained a benefit in excess of \$1,000.

2. MICHAEL J. VATTER, the defendant, was a retiree who received benefits from the Police and Fire Retirement System from the time of his retirement in or about 2000 to in or about July 2014, despite his return to public service in or about November 2009. VATTER received pension payments each month by wire transfer from Florida to his bank account in New York.

3. MICHAEL J. VATTER, the defendant, knew of the \$30,000 annual limit on earnings from such service and of his duty to report earnings in excess of the limit at the time he returned to public service. VATTER failed to report to the Police and Fire Retirement System his return to public service or the earnings he received each year in excess of \$30,000 until July 2014. VATTER did not receive a waiver of the earnings limit.

4. MICHAEL J. VATTER, the defendant, falsely represented to representatives of the City of Newburgh in 2009 that he would notify the Police and Fire Retirement System of his return to service.

5. MICHAEL J. VATTER, the defendant, received approximately \$95,106.15 in pension benefits to which he was not entitled under the Retirement Law as a result of his scheme.

STATUTORY ALLEGATION

6. From in or about November 2009 to in or about July 2014, in the Southern District of New York and elsewhere, MICHAEL J. VATTER, the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice, knowingly and willfully transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, to wit, for the purpose of executing a scheme to defraud the Police and Fire Retirement System, VATTER caused the wire transfers described in paragraphs 2 and 5 above.

(Title 18, United States Code, Sections 1343 and 2)

FORFEITURE ALLEGATION

7. As the result of committing the wire fraud offense in violation of Title 18, United States Code, Section 1343 as charged in Count One of this Indictment, MICHAEL J. VATTER, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or

is derived from proceeds traceable to the commission of the offense.

Substitute Asset Provision

8. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

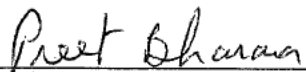
d. has been substantially diminished in value; or

e. has been comingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981(a)(1)(C);
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)


FOREPERSON


PREET BHARARA
United States Attorney

United States District Court
SOUTHERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA

V.

MICHAEL J. VATTER,

Defendant.

INDICTMENT

16 Cr. ____

(In violation of Title 18, United States Code, Section 1343)

PREET BHARARA

United States Attorney

A TRUE BILL


Foreperson